



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Handwritten signature/initials

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,815	12/12/2001	Gilbert Wolrich	10559/614001P12853	8919
20985	7590	03/01/2005		
FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			EXAMINER LEROUX, ETIENNE PIERRE	
			ART UNIT	PAPER NUMBER
			2161	
DATE MAILED: 03/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,815

Applicant(s)

WOLRICH ET AL.

Examiner

Etienne P LeRoux

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Status

Claims 1-31 are pending. Claims –31 are rejected as detailed below.

Drawings

The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). In instant applicant, Figure 4 has been omitted. Correction is requested.

Specification

In Description of the Drawings, Figure 4 has been omitted.

The specification in paragraph 17 includes a queue descriptor 51a – 51n. The queue descriptor 51a – 51n is not ascertainable from Figure 2A or Figure 2B.

The specification in paragraph 18 includes a queue descriptor 51a – 51n. The queue descriptor 51a – 51n is not ascertainable from Figure 2A or Figure 2B.

The specification in paragraph 18 includes the following “In this example queue count equals two, indicating a first BDA in the head location 52a and a second linked BDA in block 57a.” The above specification entry does not agree with Figure 2A which shows head location 52a is linked to BDA in block 57a which is linked to an empty cell b in queue 58a. It is noted

Art Unit: 2161

that tail block 54a also points to above-mentioned head location in queue 58a. Based on Figure 2A, examiner maintains the queue count is three. Correction is requested.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3-8, 11-16, 19-24 and 27-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 3, 11, 19 and 27 recite “determining the cell count is zero, and setting a second address as the first address of the first queue entry.” The specification does not describe in a clear and concise manner how to set a second address as the first address of the first queue entry such that a skilled artisan can make/or use the invention. In particular, the skilled artisan would be confused because the art accepted method of queue operation would be negated by making the first and second addresses identical.

Claims 4-8, 10-16, 18-24 and 26-31 are rejected for being dependent from a rejected base claim.

Art Rejection Precluded

Claims 3, 11, 19, and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement to the extent that art rejection is not possible.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-6, 8-10, 12-14, 16-18, 20-22, 24-26 and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,822,958 issued to Branth et al (hereafter Branth), as best examiner is able to ascertain.

Claims 1, 9, 17 and 25:

Branth discloses:

- storing addresses in a first queue entry as a circular linked list wherein the first entry [master entry, Fig 6, col 8, lines 1-28] points to a subsequent entry [Fig 6, 316b] and to a final field [Fig 6, 316d], each of the stored addresses referring to a stored data buffer [Fig 5, main cell memory 224] and including a cell count that indicates a number of cells [Fig 6, 341, col 8, line 28] contained in the data buffer, each of the stored addresses including a cell count

Art Unit: 2161

- retrieving a first address from the first queue entry; and modifying the linked list of addresses of the first queue entry based on the cell count of the first address retrieved [Fig 9, col 19, lines 24-36]

Claims 2, 10, 18 and 26 :

Branth discloses decrementing the cell count of the first address each time the first address is retrieved [col 11, line 59 – col 12 line 4]

Claims 4, 12, 20 and 28:

Branth discloses setting the first address as the head address of the first queue entry and linking a second address to the first address of the first queue entry [Fig 6, 339, 343 linked to member entry]

Claims 5, 13, 21 and 29:

Branth discloses setting the second address as a tail address of the first queue [Fig 6, 316c]

Claims 14, 22 and 30:

Branth discloses linking a third address to the first queue entry by storing the third address in the location indicated by the tail address [Fig 6, 316d]

Claims 8, 16 and 24:

Branth discloses wherein the first queue entry is stored as part of a queue array having a plurality of linked queue entries [Fig 6].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7,15, 23 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branch in view of US Pat No 6,320,861 issued to Adam et al, (hereafter Adam).

Claim 7:

Branch discloses the elements of claims 1 and 5 as noted above but fails to disclose incrementing a queue count each time an address is linked to the first queue entry. Adam discloses incrementing a queue count each time an address is linked to the first queue entry [col 6, lines 35-45]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Branch to include incrementing a queue count each time an address is linked to the first queue entry as taught by Adam for the purpose of maintaining the

Art Unit: 2161

correct functioning of queue whereby elements can only be removed in the same order in which they were inserted, that is, it follows a first in, first out (FIFO) constraint. It follows that when a new item is added to the queue the queue size has increased and therefore the queue count must be accordingly increased.

Claim 15:

Branth discloses the elements of claims 9 and 13 as noted above but fails to disclose incrementing a queue count each time an address is linked to the first queue entry. Adam discloses incrementing a queue count each time an address is linked to the first queue entry [col 6, lines 35-45]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Branth to include incrementing a queue count each time an address is linked to the first queue entry as taught by Adam for the purpose of maintaining the correct functioning of queue whereby elements can only be removed in the same order in which they were inserted, that is, it follows a first in, first out (FIFO) constraint. It follows that when a new item is added to the queue the queue size has increased and therefore the queue count must be accordingly increased.

Claim 23:

Branth discloses the elements of claims 17 and 21 as noted above but fails to disclose incrementing a queue count each time an address is linked to the first queue entry. Adam discloses incrementing a queue count each time an address is linked to the first queue entry [col 6, lines 35-45]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Branth to include incrementing a queue count each time an address is linked to the first queue entry as taught by Adam for the purpose of maintaining the

Art Unit: 2161

correct functioning of queue whereby elements can only be removed in the same order in which they were inserted, that is, it follows a first in, first out (FIFO) constraint. It follows that when a new item is added to the queue the queue size has increased and therefore the queue count must be accordingly increased.

Claim 31:

Branth discloses the elements of claims 25 and 29 as noted above but fails to disclose incrementing a queue count each time an address is linked to the first queue entry. Adam discloses incrementing a queue count each time an address is linked to the first queue entry [col 6, lines 35-45]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Branth to include incrementing a queue count each time an address is linked to the first queue entry as taught by Adam for the purpose of maintaining the correct functioning of queue whereby elements can only be removed in the same order in which they were inserted, that is, it follows a first in, first out (FIFO) constraint. It follows that when a new item is added to the queue the queue size has increased and therefore the queue count must be accordingly increased.

Response to Arguments

Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection necessitated by applicant's claim amendments.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Art Unit: 2161

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Patent related correspondence can be forwarded via the following FAX number (571) 272-2100.

Etienne LeRoux

2/22/2005


SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100